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Administrative Law Division

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This week's publication includes documents submitted by the following agencies:

Agriculture

Alcohol Beverage Control Comm.

Health Care Authority

Higher Education Policy Comm.

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Insurance Commission

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NEW RULES FILED FOR PUBLIC COMMENT THIS WEEK

<u>AGENCY</u>	<u>RULE/TYPE</u>	<u>AUTHORITY</u>	<u>HEARING/COMMENT PERIOD/LOCATION</u>
Agriculture (61-01)	Animal Disease Control Legislative	W. Va. Code 19-9-2, 19-9-4	Written Comments Only August 27, 2020, 12:00 pm Dr. James Maxwell WV Dept. of Agriculture/Animal Health Div. 1900 Kanawha Boulevard East Charleston, WV 25305 jmaxwell@wvda.us
Agriculture (61-09)	West Virginia Seed Law Legislative	W. Va. Code 19-16-6	Written Comments Only August 27, 2020, 12:00 pm Josh Arbaugh WV Dept. of Agriculture/READ Div. 1900 Kanawha Boulevard East Charleston, WV 25305 jarbaugh@wvda.us
Agriculture (61-39)	Seed Certification Program Legislative	W. Va. Code 19-16-3a, 19-16-6	Written Comments Only August 26, 2020, 12:00 pm Josh Arbaugh WV Dept. of Agriculture/READ 1900 Kanawha Boulevard East Charleston, WV 25305 jarbaugh@wvda.us
Highways (157-05)	Traffic and Safety Rules Legislative	W. Va. Code 17-2-8A, 17-2-12	Written Comments Only August 28, 2020, 9:00 am Rita Pauley 1900 Kanawha Blvd. Bldg. 5, Room 109 Charleston, WV 25305 rita.a.pauley@wv.gov
Motor Vehicles (91-13)	Compulsory Motor Vehicle Liability Insurance Legislative	W. Va. Code 17A-2-9, 17D-2A-8	Written Comments Only August 28, 2020, 12:00 pm Adam Holley DMV 5707 MacCorkle Ave. SE PO Box 17300 Charleston, WV 25317 adam.holley@wv.gov

Natural Resources (58-10)	Purchasing Rule Procedural	W. Va. Code 20-1-7 (2), 20-1-7 (31)	Written Comments Only August 28, 2020, 12:00 pm Wendy L. Greene 324 4 th Ave., Room 343 South Charleston, WV 25303 dnrccomments@wv.gov
Natural Resources (58-15)	Permits to Kill Deer or Other Wildlife Causing Damage to Cultivated Crops, Trees, Commercial Nurseries and Homeowner's Shrubbery, Vegetable Gardens and Other Property Procedural	W. Va. Code 20-2-15	Written Comments Only August 28, 2020, 12:00 pm Wendy L. Greene 324 4 th Ave., Room 343 South Charleston, WV 25303 dnrccomments@wv.gov
Natural Resources (58-46)	Defining the Terms Used in All Hunting and Trapping Legislative	W. Va. Code 20-1-7 (31)	Written Comments Only August 28, 2020, 12:00 pm Wendy L. Greene 324 4 th Ave., Room 343 South Charleston, WV 25303 dnrccomments@wv.gov
Natural Resources (58-50)	Deer Hunting Rule Legislative	W. Va. Code 20-1-7 (31)	Written Comments Only August 28, 2020, 12:00 pm Wendy L. Greene 324 4 th Ave., Room 343 South Charleston, WV 25303 dnrccomments@wv.gov
Natural Resources (58-56)	Special Migratory Game Bird Hunting Legislative	W. Va. Code 20-1-7 (31)	Written Comments Only August 28, 2020, 12:00 pm Wendy L. Greene 324 4 th Ave., Room 343 South Charleston, WV 25303 dnrccomments@wv.gov
Natural Resources (58-58)	Special Waterfowl Hunting Legislative	W. Va. Code 20-1-7 (31)	Written Comments Only August 28, 2020, 12:00 pm Wendy L. Greene 324 4 th Ave., Room 343 South Charleston, WV 25303 dnrccomments@wv.gov

Osteopathic Medicine (24-01)	Licensing Procedures for Osteopathic Physicians Legislative	W. Va. Code 30-1-4, 30-1-6b	Written Comments Only August 28, 2020, 9:00 am Chase Holcomb 405 Capitol Street, Suite 402 Charleston, WV 25301 chase.o.holcomb@wv.gov
Physical Therapy (16-01)	General Provisions for Physical Therapist and Physical Therapist Assistants Legislative	W. Va. Code 30-20-1 et. seq.	Written Comments Only August 28, 2020, 12:00 pm Nonnie S. Ramsey, Executive Director 2 Players Club Drive, Suite 102 Charleston, WV 25311 wvbopt@wv.gov
Physical Therapy (16-04)	Fees for Physical Therapist and Physical Therapist Assistant Legislative	W. Va. Code 30-20-1, et. seq.	Written Comments Only August 27, 2020, 12:00 pm Nonnie S. Ramsey, Executive Director 2 Players Club Drive, Suite 102 Charleston, WV 25311 wvbopt@wv.gov
Physical Therapy (16-05)	General Provisions for Athletic Trainers Legislative	W. Va. Code 30-20A-1 et. seq.	Written Comments Only August 28, 2020, 12:00 pm Nonnie S. Ramsey, Executive Director 2 Players Club Drive, Suite 102 Charleston, WV 25311 wvbopt@wv.gov
Physical Therapy (16-06)	Fees for Athletic Trainers Legislative	W. Va. Code 30-20A-1 et. seq.	Written Comments Only August 28, 2020, 12:00 pm Nonnie S. Ramsey, Executive Director 2 Players Club Drive, Suite 102 Charleston, WV 25311 wvbopt@wv.gov
Rehabilitation Services (198-01)	Ron Yost Personal Assistance Services Act Board Legislative	W. Va. Code 18-10L-6	Written Comments Only August 26, 2020, 12:00 pm Tracy Carr State Capitol PO Box 50890 Charleston, WV 25305 tracy.j.carr@wv.gov

Senior Services (76-06)	Shared Table Initiative for Senior Citizens Legislative	W. Va. Code 16-5S-9a	Written Comments Only August 24, 2020, 4:00 pm Commissioner Robert E. Roswall 1900 Kanawha Blvd. East Charleston, WV 25305 Robert.e.roswall@wv.gov
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NEW EMERGENCY RULES FILED THIS WEEK				
<u>AGENCY</u>	<u>RULE/TYPE</u>	<u>AUTHORITY</u>	<u>EFFECTIVE DATE</u>	<u>DATE NOTICE OF HEARING</u>
Osteopathic Medicine (24-01)	Licensing Procedures for Osteopathic Physicians	W. Va. Code 30-1-4, 30-1-6b, SB770	ERD by September 8, 2020	August 28, 2020

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Administration (148-01)	Purchasing Legislative	7/7/2020	8/6/2020						
Agriculture (61-01)	Animal Disease Control Legislative	7/28/2020	8/27/2020						
Agriculture (61-09)	WV Seed Law Legislative	7/28/2020	8/27/2020						
Agriculture (61-16)	Inspection of Meat and Poultry Legislative	7/14/2020	8/13/2020						
Agriculture (61-28)	Poultry Litter and Manure Movement Into Primary Poultry Breeder Rearing Areas Legislative				Sunset Extension 7/27/2020				
Agriculture (61-39)	Seed Certification Program Legislative	7/27/2020	8/26/2020						
Air Quality (45-08)	Ambient Air Quality Standards Legislative	6/24/2020	7/28/2020						
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/24/2020	7/28/2020						
Air Quality (45-18)	Control of Air Pollution from Combustion of Solid Waste Legislative	6/24/2020	7/28/2020						
Air Quality (45-23)	Control of Air Pollution from Municipal Solid Waste Landfills Legislative	6/24/2020	7/28/2020						
Air Quality (45-33)	Acid Rain Provisions and Permits Legislative	6/24/2020	7/28/2020						
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/24/2020	7/28/2020						
Air Quality (45-44)	Control of Greenhouse Gas Emissions from Existing Coal-Fired Electric Utility Generating Units Legislative	6/24/2020	7/28/2020						
Alcohol Beverage Control Comm. (175-02)	Private Club Licensing Legislative	6/18/2020	7/20/2020		7/24/2020				
Alcohol Beverage Control Comm. (175-10)	Distilleries, Mini-Distilleries and Micro-Distilleries Legislative	6/22/2020	7/23/2020		7/24/2020				

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Auditor (155-01)	Standards for Requisitions for Payment Issued by State Officers on the Auditor Legislative	7/13/2020	8/13/2020						
Community and Technical College Education (135-01)	Carl D. Perkins Vocational & Technical Education Act Funding Formula for WV Council for Community & Technical College Ed. & WV State Board of Ed. Procedural	6/11/2020	7/13/2020					7/16/2020	8/15/2020
Development Office (145-07)	Neighborhood Investment Program Act Procedural	7/22/2020	8/28/2020						
Development Office (145-16)	Tourism Development Districts Legislative	7/20/2020	8/21/2020		7/1/2020 Approved 7/2/2020				
Economic Development Auth. (117-06)	Purchasing Procedure Procedural	6/30/2020	7/30/2020						
Education (126-028)	WV Universal Access to a Quality Early Education System (Policy 2525) Legislative Exempt	5/13/2020	6/12/2020					7/9/2020	8/10/2020
Education (126-044AA)	WV College and Career Readiness Standards for English Language Arts (Policy 2520.1A) Legislative Exempt	5/13/2020	6/12/2020					7/9/2020	8/10/2020
Environmental Protection – Secretary's Office (60-03)	Voluntary Remediation and Redevelopment Rule Legislative	7/2/2020	8/11/2020						
Financial Institutions, Div. of (106-21)	Rule Pertaining to the Fintech Regulatory Sandbox Legislative	6/26/2020	7/31/2020		6/26/2020 Approved 7/1/2020				
Fire Commission (87-01)	State Fire Code Legislative	6/13/2019	7/16/2019		7/25/2019	Modified & Approved 12/18/2019 Filed 1/6/2020	BUNDLED HB4275	5/5/2020	8/1/2020
Fire Commission (87-04)	State Building Code Legislative	6/13/2019	7/16/2019		7/25/2019	Modified & Approved 12/18/2019 Filed 1/6/2020	BUNDLED HB4275	5/5/2020	8/1/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
File Commission (87-07)	Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Building Code (Repeal) Legislative	6/22/2020	7/22/2020						
File Marshal (103-06)	Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Building Code Legislative	6/22/2020	7/22/2020						
Funeral Service Examiners (6-01)	Funeral Director, Embalmer, Apprentice, Courtesy Card Holders and Funeral Establishment Requirements Legislative	7/22/2020	8/24/2020						
Funeral Service Examiners (6-02)	Ceremonial Requirements Legislative	7/22/2020	8/24/2020						
Funeral Service Examiners (6-07)	Fee Schedule Legislative	7/21/2020	8/24/2020						
Health (64-07)	Reportable Diseases, Events, and Conditions Legislative	7/2/2020	8/3/2020						
Health (64-11)	Behavioral Health Centers License Legislative	7/1/2020	7/31/2020						
Health (64-12)	Hospital License Legislative	7/1/2020	7/31/2020						
Health (64-13)	Nursing Home License Legislative	7/1/2020	7/31/2020						
Health (64-23)	Radiological Health Legislative	7/6/2020	8/5/2020						
Health (64-45)	Lead Abatement Licensing Legislative	7/2/2020	8/3/2020						
Health (64-59)	Client Rights at State-Operated Mental Health Facilities Legislative	7/1/2020	7/31/2020						
Health (64-60)	Delegation of Medication Administration and Health Maintenance Tasks to Approved Medication Assistive Personnel Legislative	7/1/2020	7/31/2020						

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-114)	Public Health Standards for Businesses Remaining Open During the COVID-19 Outbreak Legislative	5/15/2020 5/18/2020	6/15/2020 6/17/2020	4/16/2020 Approved 4/16/2020 Amendment 4/21/2020 Approved 4/21/2020 Amendment 5/15/2020 Approved 5/15/2020					
Health (64-115)	Diabetes Self-Management Education Legislative	7/2/2020	8/3/2020						
Health and Human Resources (69-10)	WV Clearance for Access: Registry and Employment Screening Legislative	7/1/2020	7/31/2020						
Health and Human Resources (69-15)	Recovery Residence Certification and Accreditation Program Legislative	5/8/2020	6/8/2020	4/29/2020 Effective 6/10/2020	7/1/2020				
Heating Aid Dealers (8-01)	Rule Governing the WV Bd. Of Heating Aid Dealers Legislative	7/21/2020	8/22/2020						
Higher Education Policy Comm. (133-63)	Mental Health Loan Repayment Program Legislative	6/26/2020	7/27/2020	6/26/2020 Effective 6/26/2020	7/29/2020				
Highways (157-05)	Traffic and Safety Rules Legislative	7/28/2020	8/28/2020						
Human Services (78-02)	Child Placing Agencies Licensure Legislative	7/1/2020	7/31/2020						
Human Services (78-03)	Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning Adults and Vulnerable and Transitioning Youth Group Homes and Programs in WV Legislative	7/1/2020	7/31/2020						
Human Services (78-27)	Procedure to Contest the Substantiation of Child Abuse or Neglect Legislative	7/1/2020	7/31/2020						

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Insurance Comm. (114-02A)	Fingerprinting Requirements for Applicants for Insurance Producer License and Insurance Adjuster License Legislative	6/18/2020	7/24/2020		7/27/2020				
Insurance Comm. (114-25)	Insurance Adjusters Legislative	6/18/2020	7/24/2020		7/27/2020				
Insurance Comm. (114-40)	Credit for Reinsurance Legislative	6/18/2020	7/24/2020		7/27/2020				
Insurance Comm. (114-42)	Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters Legislative	6/18/2020	7/24/2020		7/27/2020				
Insurance Comm. (114-64)	Mental Health Parity Legislative	6/22/2020	7/24/2020						
Insurance Comm. (114-100)	Health Benefit Plan Network Access and Adequacy Legislative	6/22/2020	7/24/2020						
Labor (42-03)	Steam Boiler Inspection Legislative	7/16/2020	8/17/2020						
Landscape Architects (9-01)	Registration of Landscape Architects Legislative	7/23/2020	8/24/2020						
Landscape Architects (9-04)	Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative	7/23/2020	8/24/2020						
Livestock Care Standards Bd. (73-01)	Livestock Care Standards Legislative	7/21/2020	8/20/2020						
Lottery (179-10)	WV Lottery Interactive Wagering Rule Legislative	6/11/2020	7/11/2020	5/15/2020 Approved 5/18/2020					
Medicine (11-01B)	Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative	6/19/2019	7/19/2019	6/19/2019 Amendment 7/25/2019 Approved 7/30/2019	7/25/2019	Modified & Approved 9/26/2019 Filed 10/8/2019	BUNDLED HB 4252	5/4/2020	8/2/2020
Medicine (11-13)	Waiver of Initial Licensing Fees for Certain Initial Licensure Applicants Legislative	6/19/2019	7/19/2019		7/25/2019	Modified & Approved 9/26/2019 Filed 10/8/2019	BUNDLED HB 4252	5/4/2020	8/2/2020

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Medicine (11-14)	Registration to Practice During Declared State of Emergency Legislative	4/23/2020	5/23/2020	3/26/2020 Approved 3/26/2020	6/24/2020				
Miners' Health Safety and Training (56-08)	The Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of WV Legislative	7/14/2020	8/13/2020						
Motor Vehicles (91-04)	Examination and Issuance of Driver's License Legislative	7/8/2020	8/9/2020						
Motor Vehicles (91-05)	Denial, Suspension, Revocation, Disqualification, Restriction, Non-Renewal, Cancellation, Administrative Appeals and Reinstatement of Driving Privileges Legislative	7/15/2020	8/17/2020						
Motor Vehicles (91-13)	Compulsory Motor Vehicle Liability Insurance Legislative	7/29/2020	8/28/2020						
Motor Vehicles (91-25)	Special Purpose Vehicles Legislative	7/1/2020	7/31/2020						
Municipal Pensions Oversight Bd. (211-02)	Exempt Purchasing Legislative	6/26/2020	7/27/2020						
Municipal Pensions Oversight Bd. (211-03)	Actuarial Purchasing Exemption Procedural	6/26/2020	7/27/2020						
Natural Resources (58-10)	Purchasing Rule Procedural	7/29/2020	8/28/2020						
Natural Resources (58-15)	Permits to Kill Deer or Other Wildlife Causing Damage to Cultivated Crops, Trees, Commercial Nurseries and Homeowner's Shrubbery, Vegetable Gardens and Other Property Procedural	7/29/2020	8/28/2020						
Natural Resources (58-36)	Cabwayingo State Forest Trail System Two Year Pilot Project Permitting ATVs and ORVs Legislative				Sunset Extension 2/28/2020				

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-46)	Defining the Terms Used in All Hunting and Trapping Legislative	7/29/2020	8/28/2020						
Natural Resources (58-50)	Deer Hunting Rule Legislative	7/29/2020	8/28/2020						
Natural Resources (58-56)	Special Migratory Game Bird Hunting Legislative	7/29/2020	8/28/2020						
Natural Resources (58-58)	Special Waterfowl Hunting Legislative	7/29/2020	8/28/2020						
Occupational Therapy (13-02)	Disciplinary, Complaint and Contested Case Hearing Procedures for Occupational Therapists and Occupational Therapy Assistants Procedural	6/16/2020	8/1/2020						
Occupational Therapy (13-09)	Telehealth Practice; Requirements; Definitions Legislative	6/15/2020	8/1/2020						
Osteopathic Medicine (24-01)	Licensing Procedures for Osteopathic Physicians Legislative	7/28/2020	8/28/2020	7/28/2020 ERD by 9/8/2020					
Osteopathic Medicine (24-02)	Osteopathic Physician Assistants Legislative	6/28/2019	7/29/2019	6/28/2019 Amendment 7/31/2019 Approved 8/5/2019	7/31/2019	Modified & Approved 10/24/2019 Filed 11/14/2019	BUNDLED HB 4252	5/4/2020	8/2/2020
Osteopathic Medicine (24-09)	Emergency Temporary Permits to Practice During States of Emergency or State of Preparedness Legislative	4/15/2020	5/15/2020	3/26/2020 Approved 3/26/2020	6/22/2020				
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	4/30/2020	5/31/2020	4/30/2020 Approved 4/30/2020	6/5/2020				
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	7/22/2020	8/21/2020						
Pharmacy (15-02)	Uniform Controlled Substances Act Legislative	4/30/2020	5/31/2020	4/1/2020 Approved 4/1/2020	6/5/2020				
Pharmacy (15-02)	Uniform Controlled Substances Act Legislative	7/22/2020	8/21/2020						

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Pharmacy (15-03)	Continuing Education for Licensure of Pharmacists Legislative	7/22/2020	8/21/2020						
Pharmacy (15-05)	Licensure of Wholesale Drug Distributors, Third Party Logistics Providers, and Manufacturers Legislative	7/22/2020	8/21/2020						
Pharmacy (15-08)	Controlled Substances Monitoring Program Legislative	7/22/2020	8/21/2020						
Pharmacy (15-09)	Disciplinary Procedures Procedural	7/22/2020	8/21/2020						
Pharmacy (15-12)	Immunizations Administered by Pharmacist and Pharmacy Interns Legislative	5/1/2020 7/22/2020	6/2/2020 8/21/2020	4/20/2020 Approved 4/20/2020	6/5/2020				
Physical Therapy (16-01)	General Provisions for Physical Therapist and Physical Therapist Assistants Legislative	7/29/2020	8/28/2020						
Physical Therapy (16-04)	Fees for Physical Therapist and Physical Therapist Assistant Legislative	7/28/2020	8/27/2020						
Physical Therapy (16-05)	General Provisions for Athletic Trainers Legislative	7/29/2020	8/28/2020						
Physical Therapy (16-06)	Fees for Athletic Trainers Legislative	7/29/2020	8/28/2020						
Professional Surveyors (23-01)	Examination and Licensing of Professional Surveyors in WV Legislative	7/13/2020	8/14/2020						
Public Service Commission (150-39)	Rules Governing Siting Certificates for Solar Exempt Wholesale Generators Legislative Exempt	5/28/2020	6/29/2020						
Racing Commission (178-01)	Thoroughbred Racing Legislative	6/18/2020	7/20/2020						
Racing Commission (178-02)	Greyhound Racing Legislative	6/18/2020	7/20/2020						
Racing Commission (178-10)	Advance Deposit Account Wagering (ADW) Legislative	7/1/2020	7/31/2020	7/1/2020 Approved 7/1/2020					

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Real Estate Commission (174-01)	Licensing Real Estate Brokers, Associate Brokers, and Salespersons and the Conduct of Brokerage Business Legislative	7/21/2020	8/20/2020						
Rehabilitation Services (198-01)	Ron Yost Personal Assistance Services Act Bd. Legislative	7/24/2020	8/26/2020						
Respiratory Care (30-01)	Criteria for Licensure Legislative	7/20/2020	8/21/2020						
Respiratory Care (30-02)	Establishment of Fees Legislative	5/7/2019	6/7/2019		6/27/2019	Modified & Approved 9/26/2019 Filed 10/1/2019	BUNDLED HB4252	5/4/2020	8/4/2020
Respiratory Care (30-09)	Student Temporary Permits Legislative	5/22/2019	6/24/2019		6/27/2019	Modified & Approved 9/26/2019 Filed 10/2/2019	BUNDLED HB4252	5/11/2020	8/11/2020
Risk and Insurance Management (115-01)	Mine Subsidence Insurance Legislative	7/9/2020	8/8/2020						
Risk and Insurance Management (115-02)	Public Entities Insurance Program Legislative	7/9/2020	8/8/2020						
Risk and Insurance Management (115-03)	Administrative Rules of State Board of Risk and Insurance Management Procedural	7/9/2020	8/8/2020						
Risk and Insurance Management (115-05)	Procedure for Providing Written Notification of Claims of Potential Liability to the State or Its Employees (Repeal) Legislative	7/9/2020	8/8/2020						
Risk and Insurance Management (115-09)	Procurement Procedural	7/9/2020	8/8/2020						
Risk and Insurance Management (115-10)	Procedure for Providing Written Notification of Claims Procedural	7/9/2020	8/8/2020						
Sanitations (20-06)	Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative	7/21/2020	8/24/2020						

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Secondary School Activities Comm. (127-02)	Athletics, Provisions Governing Eligibility Legislative Exempt	5/13/2020	8/12/2020					7/9/2020	9/8/2020
Secondary School Activities Comm. (127-03)	Provisions Governing Contests Legislative Exempt	5/13/2020	8/12/2020					7/9/2020	9/8/2020
Secretary of State (153-10)	Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Election Systems, Software, Services and Upgrades Legislative	4/24/2020	5/29/2020	3/25/2020 Amendment 4/24/2020 Amendment 4/27/2020 Effective 6/8/2020	6/23/2020				
Secretary of State (153-45)	Guidelines and Standards for Electronic Notarization Legislative	4/30/2020	6/1/2020	3/27/2020 Amendment 3/31/2020 Approved 4/1/2020	6/25/2020				
Secretary of State (153-53)	Election Processes and Absentee Eligibility During State of Emergency			3/20/2020 Effective 3/20/2020					
Senior Services (76-06)	Shared Table Initiative for Senior Citizens Legislative	7/24/2020	8/24/2020						
State Emergency Response Comm. (55-01)	Emergency Planning and Community Right to Know Legislative	7/13/2020	8/12/2020						
State Emergency Response Comm. (55-02)	Emergency Planning Grant Program Legislative	7/13/2020	8/12/2020						
Tax (110-13FF)	Tax Credit for Providing Vehicles to Low-Income Workers Legislative	6/22/2020	7/22/2020						
Tax (110-13GG)	Downstream Natural Gas Manufacturing Investment Tax Credit Legislative	6/22/2020	7/22/2020		7/29/2020				
Tax (110-13II)	High-Wage Growth Business Tax Credit Legislative	6/22/2020	7/22/2020		7/29/2020				
Tax (110-21F)	The Coal Severance Tax Rebate Interpretive	6/5/2020	7/6/2020					7/9/2020	8/8/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Waste Mgmt., Div. of Water & Waste Mgmt. (33-20)	Hazardous Waste Management System Legislative	7/8/2020	8/11/2020						
Water Resources Division of Water and Waste Management (47-02)	Requirements Governing Water Quality Standards Legislative	3/31/2020	5/19/2020						
Water Resources Division of Water and Waste Management (47-02B)	Assessment Methodology for the Biological Component of the Narrative Criteria in Wadeable Streams Procedural	2/7/2020 3/20/2020	3/26/2020 4/20/2020						

LEGISLATIVE NOTICES RECEIVED THIS WEEK

Notices of Public Comment Period

Agriculture	61-01	Animal Disease Control
Agriculture	61-09	West Virginia Seed Law
Agriculture	61-39	Seed Certification Program
Highways	157-05	Traffic and Safety Rules
Motor Vehicles	91-13	Compulsory Motor Vehicle Liability Insurance
Natural Resources	58-46	Defining the Terms Used in All Hunting and Trapping
Natural Resources	58-50	Deer Hunting Rule
Natural Resources	58-56	Special Migratory Game Bird Hunting
Natural Resources	58-58	Special Waterfowl Hunting
Osteopathic Medicine	24-01	Licensing Procedures for Osteopathic Physicians
Physical Therapy	16-01	General Provisions for Physical Therapist and Physical Therapist Assistant
Physical Therapy	16-04	Fees for Physical Therapist and Physical Therapist Assistant
Physical Therapy	16-05	General Provisions for Athletic Trainers
Physical Therapy	16-06	Fees for Athletic Trainers
Rehabilitation Services	198-01	Ron Yost Personal Assistance Services Act Board
Senior Services	76-06	Shared Table Initiative for Senior Citizens

Notice of Sunset Provision Extension Request

Agriculture	61-28	Poultry Litter and Manure Movement into Primary Poultry Breeder Rearing Areas
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Notices of Agency Approval of a Proposed Rule

Agriculture	61-28	Poultry Litter and Manure Movement into Primary Poultry Breeder Rearing Areas
Alcohol Beverage Control Comm.	175-02	Private Club Licensing
Alcohol Beverage Control Comm.	175-10	Distilleries, Mini-Distilleries and Micro Distilleries
Higher Education Policy Comm.	133-63	Mental Health Loan Repayment Program
Insurance Comm.	114-02A	Fingerprinting Requirements for Applicants for Insurance Producer and Insurance Adjuster License
Insurance Comm.	114-25	Insurance Adjusters
Insurance Comm.	114-40	Credit for Reinsurance
Insurance Comm.	114-42	Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters
Tax	110-13GG	Downstream Natural Gas Manufacturing Investment Tax Credit
Tax	110-13II	High-Wage Growth Business Tax Credit

PROCEDURAL NOTICES RECEIVED THIS WEEK

Notices of Public Comment Period

Natural Resources	58-10	Purchasing Rule
Natural Resources	58-15	Permits to Kill Deer or Other Wildlife Causing Damage to Cultivated Crops, Trees, Commercial Nurseries and Homeowner's Shrubbery, Vegetable Gardens and Other Property

Notice of Technical Amendment

Agriculture	61-01D	List of Restricted Live, Modified Live and Killed Vaccines for Animals
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EMERGENCY NOTICES RECEIVED THIS WEEK

Notice of Emergency Rule

Osteopathic Medicine	24-01	Licensing Procedures for Osteopathic Physicians	ERD by 9/8/2020
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Orders Report

DOCKET NUMBER	AGENCY	RESPONDENT	DATE RENDERED
20-AP-FINCON-02006	Insurance Commission	WV Essential Property Insurance Association	July 20, 2020

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 55-20

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and certain small businesses while requiring proper social distancing and hygiene practices be maintained at such businesses; and

WHEREAS, since the issuance of Executive Order 9-20 and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

WHEREAS, on April 27, 2020, I, Governor Jim Justice, announced the state's reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased reopening, to be based upon certain metrics and conditions to safely reopen segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

WHEREAS, Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

WHEREAS, under the Comeback Plan, the phased reopening of businesses and activities in West Virginia has allowed our public health experts to effectively monitor the numbers of cases and rate of spread of the virus within this State and across the nation, and to make recommendations based upon the most current data available; and

WHEREAS, Executive Order 52-20 prohibited the consumption of food or drink at bars in Monongalia County, and limited the occupancy by the general public at bars in Monongalia County for purposes other than picking up food and/or drink from such establishments to be taken away, for a period of ten days; and

WHEREAS, West Virginia's public health experts have advised that, due to the current number and demographics of positive cases of COVID-19 in Monongalia County, it is appropriate at this time to extend the time period for the prohibitions and limitations of Executive Order 52-20 on bars in Monongalia County for an additional ten days and to expand available seating in bar areas of restaurants, hotels, and similar facilities in Monongalia County; and

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective immediately, as follows:

1. That all bars in Monongalia County shall not allow on-premises consumption of food or drink or occupancy by the general public for purposes other than picking up food and/or drink from such establishment to be taken away.
2. That tables and seats at bar tops within "bar areas" of restaurants, hotels, and other similar facilities may be used for general seating for dining, subject to the same limitations as are in place for restaurants, including without limitation the requirement to maintain adequate social distancing.
3. That the provisions of this Order supersede any conflicting provisions of Section 3.c. of Executive Order 9-20, as amended, only with respect to the operation of bars and bar areas of establishments in Monongalia County.
4. That the provisions of Executive Order 52-20, ordering an initial ten-day prohibition and limitation on bars in Monongalia County, are superseded by the provisions of this Order, which Order shall remain in effect until 12:01 AM, Eastern Standard Time, on the Third day of August, Two Thousand Twenty, unless rescinded, amended, or extended by subsequent executive order prior to such time and date.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this Twenty-third day of July, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-eighth year of the State.


GOVERNOR


SECRETARY OF STATE

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 56-20

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and certain small businesses while requiring proper social distancing and hygiene practices be maintained at such businesses; and

WHEREAS, since the issuance of Executive Order 9-20 and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of

rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

WHEREAS, on April 27, 2020, I, Governor Jim Justice, announced the state's reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased reopening, to be based upon certain metrics and conditions to safely reopen segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

WHEREAS, Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

WHEREAS, under the Comeback Plan, Executive Order 32-20, Executive Order 36-20, Executive Order 37-20, Executive Order 39-20, Executive Order 40-20, Executive Order 41-20, Executive Order 42-20, Executive Order 43-20, Executive Order 44-20, Executive Order 45-20, Executive Order 49-20, and Executive Order 51-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses and activities to begin to resume or expand their operations, provided that certain safety measures are in place; and

WHEREAS, reopening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to reopen sectors of the economy week by week, while continuing to prioritize and provide for the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population, is in the public interest; and

WHEREAS, West Virginia's public health experts have advised that allowing for the reopening and/or expansion of certain types of activities in this state, including allowing private and public pre-K through 12 schools to resume in-person instruction no sooner than September 8, 2020, allowing colleges and universities throughout the state to resume in-person instruction as of the effective date of this Order, and clarifying what live music events are prohibited at this time, is appropriate at this time; and

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 12:01 AM, Eastern Standard Time, on the Twenty-fifth day of June, Two Thousand Twenty, as follows:

1. The following provisions of Executive Order 9-20, as previously amended by Executive Orders 32-20, 36-20, 37-20, 39-20, 40-20, 41-20, 42-20, 43-20, 45-20, 49-20, and 51-20 are hereby further amended and supplemented as follows:

- a. Section 3, subsection (c), as amended, is hereby deleted in its entirety and replaced with the following to allow for in-person instruction to resume at educational institutions in this State:

"c. **Educational institutions.**

- i. Public and private pre-K-12 schools may operate for purposes of facilitating or conducting distance learning, holding or participating in graduation ceremonies or other extracurricular activities, and/or performing other essential functions, provided that such educational institutions may also resume in-person instruction and other operations no sooner than September 8, 2020, provided that social distancing and other safety practices are maintained in accordance with any guidelines and/or regulations promulgated by any applicable governing body or bodies for such institution.
- ii. Colleges and universities throughout the state may resume in-person instruction and other operations in accordance with any guidelines and/or regulations promulgated by any applicable governing body or bodies for such institutions."

- b. Section 4, as amended, is hereby deleted in its entirety and replaced with the following to clarify what live music events are prohibited at this time:

"4. **Prohibited activities.** Carnivals, fairs, concert and music halls, adult entertainment venues, and other similar businesses shall be closed, and live music performances shall be prohibited, except, however, that (i) one-person live music performances (including, by way of example only, a single musician or a single karaoke performer) may be allowed in outdoor or open-air settings so long as a physical barrier separates the performer from any patron-viewer and social distancing is maintained between any patron-viewers of such solo live music performance, and (ii) live music performances held as drive-in events may be allowed in outdoor or open-air settings so long as such events are held in accordance with applicable guidance relating to the safe operation of drive-in events, *Guidance for West Virginia Drive-In Theaters*, available at governor.wv.gov; and provided, that the following specific outdoor recreational businesses and activities may resume operations as follows:

- a. The Hatfield McCoy Trail System may reopen in accordance with the guidance, *A Guide to Safely Opening & Operating the Hatfield McCoy Trail System*, available at governor.wv.gov;
- b. Outdoor recreation outfitters may reopen in accordance with the guidance, *A Guide to Safely Reopening Outdoor Recreation Outfitters*, available at governor.wv.gov;
- c. Whitewater rafting businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Whitewater Rafting*, available at governor.wv.gov; and
- d. Ziplining businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Zipline Outfitters*, available at governor.wv.gov."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this Twenty-fourth day of July, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-eighth year of the State.


GOVERNOR


SECRETARY OF STATE

FILED

2020 JUL 30 P 1:45

OFFICE OF THE ATTORNEY GENERAL

CHARLESTON, WEST VIRGINIA



State of West Virginia
Office of the Attorney General
1900 Kanawha Blvd E
Building 1, Room 26-L
Charleston, WV 25305-0220

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

July 9, 2020

The Honorable Raymond LaMora
Tucker County Prosecuting Attorney
211 First Street, Suite 207
Pursons, WV 26287

Dear Prosecuting Attorney LaMora:

You have asked for an Opinion of the Attorney General about billing for ambulance fees. This Opinion is being issued pursuant to West Virginia Code Section 5-3-2, which provides that the Attorney General "may consult with and advise the several prosecuting attorneys in matters relating to the official duties of their office." To the extent this Opinion relies on facts, it depends solely on the factual assertions in your correspondence with the Office of the Attorney General.

Your letter raises the following legal question:

Is the Tucker County Sheriff required to bill and collect the money associated with a county ambulance fee, or may another county employee fulfill this role at the request of the Tucker County Commission?

We conclude that if a county commission does not designate a party to collect the county's ambulance fee, then the county sheriff must collect the fees. A county commission is not required to use the sheriff's office to collect the ambulance fee, however, and may delegate responsibility for this task to a different county employee.

Discussion

West Virginia Code § 7-5-1 appoints sheriffs as their county's "ex officio county treasurer." As the treasurer, the sheriff "shall receive, collect and disburse all moneys due such county or any district thereof." *Id.* Sheriffs act in a purely administrative capacity as treasurer.

and have “no discretion in making payment of claims” or in collecting claims. Syl. pt. 1, *State ex rel. Dunron v. Ferrell*, 149 W. Va. 773, 143 S.E.2d 469 (1965). Further, a sheriff may not decline to act as treasurer because the Legislature used the word “shall” in Section 7-5-1: “in the absence of language in the statute showing a contrary intent on the part of the Legislature,” the term “shall” “should be afforded a mandatory construction.” Syl. pt. 1, *Nelson v. W. Virginia Pub. Employees Ins. Bd.*, 171 W. Va. 445, 300 S.E.2c 86 (1982). At a county commission’s request a sheriff therefore has a duty to collect any fees owed to the county.

Nevertheless, in at least some circumstances a sheriff’s *mandatory* duty to collect fees is not *exclusive*. For certain functions and fees, the Legislature has granted county commissions power to collect fees directly. One example is the Emergency Ambulance Service Act of 1975, which bestows on county commissions authority to provide “emergency ambulance service . . . to all the residents of the county where such service is not otherwise available.” W. Va. Code § 7-15-4. A commission may provide the service “through its agents, servants and employees; or through private enterprise; or by its designees; or by contracting with individuals, groups, associations, corporations or otherwise; or it may cause such services to be provided by an authority.” *Id.* The “provisions of this [Act] shall be liberally construed to accomplish its purpose.” *Id.* § 7-15-18. And critically, it provides that commissions may “by ordinance, impose upon *and collect* from the users of emergency ambulance service within the county a special service fee.” *Id.* § 7-15-17 (emphasis added).

Reading this provision together with a sheriff’s duty to collect fees in Section 7-5-1, we conclude that in the specific context of collecting ambulance fees, a sheriff must collect fees owed to the county unless the commission designates another individual or entity to do so.

First, it is a key canon of statutory construction that “[s]tatutes which relate to the same subject matter should be *read and applied together* so that the Legislature’s intention can be gathered from the whole of the enactments.” Syl. pt. 8, *Burber v. Camden Clark Mem. Hosp. Corp.*, 240 W. Va. 663, 815 S.E.2d 474 (2018) (citation omitted; emphasis added). Unless two statutes are in irreconcilable conflict, courts must “construe such statutes so as to give effect to each.” Syl. pt. 9, *id.* (citation omitted). Here there is admittedly some tension between the two statutes at issue, but they are not in irreconcilable conflict. It is a fair interpretation, making and applying the statutes together as required, that sheriffs “shall” collect fees in the sense that they are the default officer with this responsibility and cannot refuse to fulfill this role when asked, but that the commission also has discretion not to call on the sheriff’s office and instead take direct responsibility for collecting fees.

Second, any conflict between the statutes would be resolved in favor of the more specific Emergency Ambulance Act. When “faced with a choice between two statutes, one of which is couched in general terms and the other of which specifically speaks to the matter at hand, preference generally is accorded to the specific statute.” *Newark Ins. Co. v. Brown*, 218 W. Va. 346, 351, 624 S.E.2d 783, 788 (2005). Section 7-5-17 deals with authority to collect ambulance fees specifically. By contrast, Section 7-5-1 speaks to a sheriff’s general authority to collect county debts. Thus, even if a reviewing court finds that the two statutes are in irreconcilable conflict, it would very likely give effect to the commission’s specific power to collect ambulance fees in Section 7-15-17.

Third, the Supreme Court of Appeals has affirmed county commissions' broad discretion in how to collect ambulance fees. The Court has explained that "[b]ecause the [Emergency Ambulance Act] identifies itself as the full and complete authority for the provision of emergency ambulance service . . . it plainly is intended to be the *only authority relied upon by a county commission in undertaking its duty to provide such ambulance authority*." *Teets v. Muller*, 237 W. Va. 473, 482, 788 S.E.2d 1, 10 (2016) (citation omitted; emphasis added).

And in *Randy Waugh/Waugh's Mobile Home Park v. Morgan Cty. Emergency Med. Servs. Bd., Inc.*, the petitioner argued that the local ambulance authority could not collect ambulance fees he owed because only the commission had authority to sue for collection of ambulance fees. 236 W. Va. 468, 475, 781 S.E.2d 379, 386 (2015). The Court rejected this argument, reasoning that the commission had statutory authority to authorize the ambulance authority to collect delinquent emergency ambulance fees through a civil action. *Id.* The question of a sheriff's separate duty to collect fees was not at issue in this case, but the Court's acknowledgment of commissions' statutory discretion in this area further supports our conclusion that it would reaffirm that discretion if presented with the specific question you raise. After all, if a commission has power to authorize an ambulance authority to bill and collect the money for ambulance fees, then it necessarily has discretion not to use the services of the sheriff's office for the same task. See also Opinion of the Attorney General Concerning Collection of Emergency Ambulance Service Fees, 2018 WL 4608630, at *2 (W. Va. A.G. July 18, 2018) (concluding that a county commission may refer "unpaid fees to a collections agency" under Section 7-15-17).

In short, reading both relevant statutes together confirms that although a county sheriff's office may not decline to collect fees if the county commission does not designate another entity, a county commission may also choose, through ordinance, to vest the duty of billing and collecting of fees in one of its employees or to another entity.

Sincerely,



Patrick Morrissey
Attorney General

Lindsay See
Solicitor General

Benjamin Fischer
Assistant Solicitor General



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
WV Health Care Authority

Bill J. Crouch
Cabinet Secretary

Barbara Skeen
Interim Executive Director

In Re:

THE PHYSICIAN PARTNERS, INC.
CON File No. 20-3-11853-P

NOTICE OF PREHEARING CONFERENCE
AND ADMINISTRATIVE HEARING

PLEASE TAKE NOTICE that pursuant to Chapter 16, Article 2D, and to Chapter 29A, Article 5, of the West Virginia Code of 1931, as amended, that Barbara Skeen, Interim Executive Director of the West Virginia Health Care Authority, wishes to announce that the following proceedings have been scheduled for the above-noted application:

A PREHEARING CONFERENCE will be held, **October 5, 2020, at 1:30 p.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

AN ADMINISTRATIVE HEARING will be held, **October 12, 2020, at 9:00 a.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

This application concerns the need for establishing an ambulatory health care facility through the acquisition of an existing primary care practice in St. Albans, Kanawha County, West Virginia.

You and any other "affected persons" as defined by W. Va. Code §16-2D-2 wishing to participate in the hearing of this application are directed to be present at both the prehearing conference and the administrative hearing.

The purpose of the prehearing conference is to designate parties to the hearing, to designate the issues for the hearing, resolve any procedural matters, receive any motions, establish the order of proceedings, receive a listing of the witnesses and a summary of direct testimony that will be offered at the hearing, receive a listing of evidence to be offered and copies of any documents to be offered such as reports or analysis prepared by expert witnesses including any financial reports and any other procedural matters. The prehearing conference will be

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conducted in conformance to Rule 16, West Virginia Rules of Civil Procedure for pretrial conferences.

In a hearing, any person has the right to be present or to be represented by counsel and to present oral or written arguments and relevant evidence. Any person affected by the matter which is the subject of the hearing may conduct reasonable questioning of persons who make factual allegations relevant to such matters.

PLEASE TAKE NOTICE that if the party who requested the hearing withdraws that request, then the hearing will be canceled.

The file on this application is available for examination in the offices of the Health Care Authority from 8:30 a.m. to 12:00 p.m., Monday through Friday. If you have questions concerning this matter, please contact Barbara Skeen, Interim Executive Director, at (304) 558-7000.

Date: July 24, 2020


Barbara Skeen, Interim Executive Director

**WEST VIRGINIA
HEALTH CARE AUTHORITY**

**In Re: THS PHYSICIAN PARTNERS, INC.
 CON File # 20-3-11853-P**

HEARING ORDER

The following shall apply to and govern the above-captioned action and activities conducted in connection with it. In the absence of a specific date or deadline for a given activity, it is anticipated that such activity will be scheduled and conducted within a reasonable time prior to the hearing.

The parties may not amend, modify or adjust any provision of this order except by leave of the Authority.

1. **Hearing date: October 12, 2020, at 9:00 a.m.**
2. **Prehearing conference date: October 5, 2020, at 1:30 p.m.**
3. **Settlement conference (optional): N/A**
4. **All replacement pages to CON application to be filed by: July 31, 2020**
Pursuant to W. Va. Code St. R. §65-32-6, if the applicant submits a substantial amendment to the application the Authority may withdraw the application from review. The board may examine the extent of additional information or any amendment made by the applicant to the application and its impact on the new institutional health service, and determine the application to be a new proposal subject to a new review cycle.
5. **Motions for discovery to be filed by: August 14, 2020**
6. **Discovery completed on or before: September 21, 2020**
Parties engaging in discovery are required to file a copy of the certificate of service attached to the discovery request or response with the board. Affected parties shall not file copies of the actual discovery and responses with the board. To the extent that an affected party intends to introduce a document obtained through the discovery process at the administrative hearing, the document and two (2) copies must be filed at the prehearing conference.

7. Dispositive and preliminary motions to be filed by: **September 28, 2020**
Parties shall file all prehearing motions with the board a minimum of three (3) days prior to the prehearing conference.
8. All requests for subpoenas and/or subpoenas duces tecum to be filed by:
September 28, 2020

Entered this 24th day of July, 2020.

A handwritten signature in blue ink that reads "B. Allen Campbell". The signature is written in a cursive style with a large, stylized "B".

B. Allen Campbell
Senior Assistant Attorney General
Counsel for the West Virginia Health Care
Authority

Distribution List:

Alaina N. Crislip (Sent via email and USPS)
Neil C. Brown
James W. Thomas
Jackson Kelly PLLC
500 Lee Street, East. Ste. 1800
Charleston, WV 25301
On Behalf of THS Physician Partners, inc.

Thomas G. Caslo (Sent via email and USPS)
Lewls Glasser PLLC
300 Summers Street, Suite 700
Charleston, WV 25301
On Behalf of Charleston Area Medical Center, Inc.

Raymona A. Kirneberg (Sent via email and USPS)
RKSB Health Care Consulting
210 MacCorkle Avenue, S.E.
Charleston, WV 25314

Sargent's Court Reporting (Sent via email and USPS)
200 Main Street
Johnstown, PA 15901-1509

The Honorable Mac Warner (Sent via USPS)
Secretary of State
State Capitol Complex
Charleston, WV 25305

Dennis Garrison, Director
Consumer Advocacy Division
West Virginia Insurance Commission

**WEST VIRGINIA HEALTH CARE AUTHORITY
CERTIFICATE OF NEED
100 Dee Drive
Charleston, West Virginia 25311-1600**

July 27, 2020

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **July 24, 2020**.

LETTER OF INTENT RECEIVED

July 21, 2020 – Elder Aide Services d/b/a Right at Home, Charleston, Kanawha County, CON File #20-2-11894-PC, for the provision of personal care services in Cabell County; capital expenditure: \$5,000.

APPLICATION FOR EXEMPTION RECEIVED

July 21, 2020 – Total Health and Recovery Clinic, LLC, Parkersburg, Wood County, CON File #20-5-11893-X, for the development of an office based medication assisted treatment program in Parkersburg, Wood County.

HEARING NOTICE

The Administrative Hearing and Prehearing Conference have been SCHEDULED in the following matter:

July 24, 2020 - THS Physician Partners, Inc., South Charleston, Kanawha County, CON File #20-3-11853-P, for the development of an ambulatory health care facility through the acquisition of a physician practice in St. Albans, Kanawha County; capital expenditure: \$45,000.

Prehearing Conference: **October 5, 2020 at 1:30 p.m.**

Administrative Hearing: **October 12, 2020 at 9:00 a.m.**

The prehearing conference and administrative hearing in the above-referenced matter will be held in the office of the Health Care Authority, 100 Dee Drive, Charleston, West Virginia 25311-1600, unless otherwise noted.

HEARING ORDER ISSUED

July 24, 2020 - THS Physician Partners, Inc., South Charleston, Kanawha County, CON File #20-3-11853-P, for the development of an ambulatory health care facility through the acquisition of a physician practice in St. Albans, Kanawha County; capital expenditure: \$45,000.

PROJECTS DETERMINED NOT REVIEWABLE

July 20, 2020 – United Hospital Center, Bridgeport, Harrison County, CON File #20-7-11879-X, for the complete relocation of its home health branch office from 100 Hoylman Drive to 64 State Street, both in Gassaway, Braxton County; capital expenditure: \$10,000.

July 20, 2020 – Stonerise Reliable Healthcare LLC, Charleston, Kanawha County, CON File #20-6-11883-X, for the complete relocation of its Morgantown office from 5000 Greenbag Road, Suite F8 to 30 Mon Health Drive, Building #2, both located in Morgantown, Monongalia County; capital expenditure: \$1,000.

CERTIFICATE OF NEED APPROVAL ISSUED

July 22, 2020 - St. Mary's Medical Center, Inc., Huntington, Cabell County, CON File #20-2-11852-P, for the development of an ambulatory health care facility in Cabell County through the acquisition of a physician practice; capital expenditure: \$10,550,000.

RENEWAL GRANTED

July 22, 2020 - Putnam General Hospital, Hurricane, Putnam County, CON File #03-3-7617-H, for the renovation and expansion of its campus and the addition of twelve (12) acute care beds.

Renewal granted through June 30, 2021.

Further information may be obtained on any of the above-referenced projects by contacting Barbara Skeen, Director, Certificate of Need Division.